

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M No.36142 of 2023
Date of decision: 4th October, 2023

Uday Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Mukesh Mehra, Advocate for the petitioner.
Mr. Amit Rana, Sr. Deputy Advocate General, Punjab
for the respondent/State.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 439 Cr.P.C. in case FIR No.0086 dated 18.07.2019 under Sections 22 & 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Chhajali, District Sangrur.

2. Learned counsel for the petitioner inter alia contends that the petitioner has been falsely implicated in the case in hand as neither was the recovery of any contraband effected from him nor was he apprehended along with the co-accused, from whom the alleged recovery of 250 intoxicant injections was effected. Learned counsel submits that the petitioner came to be nominated as an accused on the basis of a disclosure statement allegedly made by the two co-accused, from whom the alleged recoveries was effected by the police. Learned counsel further

submits that though the petitioner was arrested on 20.07.2019, however, the trial had not concluded till now as only three witnesses out of the 20 cited by the prosecution had been examined so far. Learned counsel, thus, prays that in the facts and circumstances as enumerated hereinabove, further incarceration of the petitioner would serve no useful purpose and he be extended the concession of bail as there is no likelihood of the trial concluding in the near future.

3. Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions from ASI Harmesh Singh, has not been able to controvert that the petitioner was not apprehended along with the two co-accused, from whom the alleged recovery of 250 intoxicant injections was effected. He however submits, on instructions, that the petitioner is involved in another case under the NDPS Act.

4. I have heard learned counsel for the parties and perused the relevant material on record.

5. The petitioner has now been in custody for more than four years, having been arrested on 20.07.2019 and as not disputed by the learned State counsel, as many as 17 prosecution witnesses still remain to be examined. The petitioner cannot be made to languish in judicial custody for reasons not attributable to him.

6. Hon'ble the Supreme Court in '***Dheeraj Kumar Shukla Vs. State of Uttar Pradesh***' (SLP(Crl.) No.6690/2022) decided on **25.01.2023** has observed as under:-

“.... It is true that the quantity recovered from the petitioner is commercial in nature and the provisions of Section 37 of the Act may ordinarily be attracted. However, in the absence of criminal antecedents and the fact that the petitioner is in custody for the last two and a half years, we are satisfied that the conditions of Section 37 of the Act can be dispensed with at this stage, more so when the trial is yet to commence though the charges have been framed.”

7. In the facts and circumstances as enumerated hereinabove and the observations made by Hon’ble the Supreme Court in ***Dheeraj Kumar Shukla’s case (ibid)***, this Court deems it fit to extend the concession of bail to the petitioner. The petition as such is allowed and the petitioner is admitted to bail to the satisfaction of the trial Court/Duty Magistrate. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

8. Needless to add here, in case the petitioner misuses the concession of bail, the State would be at liberty to approach this Court for cancellation of bail in the instant case.

(MANJARI NEHRU KAUL)
JUDGE

October 4, 2023
rps

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No